

1 JEFFREY M. LENKOV, ESQ. (SBN 156478)  
2 jml@mmker.com  
3 **MANNING & KASS**  
4 **ELLROD, RAMIREZ, TRESTER LLP**  
5 15th Floor at 801 Tower  
6 801 South Figueroa Street  
7 Los Angeles, CA 90017  
8 Telephone: (213) 624-6900  
9 Facsimile: (213) 624-6999

10 Attorneys for Defendant  
11 MACY'S WEST STORES, INC. [Erroneously sued herein as MACY'S INC.]

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

CV11-07824 MPP(FFMx)

LORI LYNN BENJAMIN,

Plaintiffs,

vs.

MACY'S INC. A Business Entity; DOES  
1 through 50, Inclusive; ROE  
CORPORATION and ROE  
PARTNERSHIP,

Defendants.

**Civil Action No.:**

**DEFENDANT MACY'S WEST-  
STORES' NOTICE OF REMOVAL  
OF ACTION UNDER 28 U.S.C.  
§1441(b); AND DECLARATION OF  
JEFFREY M. LENKOV IN  
SUPPORT THEREOF**

**DEMAND FOR JURY TRIAL**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

**PLEASE TAKE NOTICE** that Defendant Macy's West Stores, Inc.  
[erroneously sued herein as Macy's Inc.] hereby removes to this Court the State  
Court action described below:

1. On September 1, 2011, Plaintiff Lori Lynn Benjamin filed this action in  
the Superior Court of the State of California, County of Los Angeles, as Case No.  
SC113996. Attached hereto as Exhibit "A" is a true and correct copy of the  
Summons and Complaint. Attached hereto as Exhibit "B" is a true and correct copy  
of Defendant Macy's West Stores' answer.

2. This action is a civil action of which this Court has original jurisdiction

1 under 28 U.S.C. §1332, and is one which may be removed to this Court by  
 2 Defendant Macy's pursuant to the provisions of 28 U.S.C. §1441, in that it is a civil  
 3 action between citizens of different states and the matter in controversy exceeds the  
 4 sum of \$75,000, exclusive of interest and costs.

5       3.      Diversity of the parties exists as Plaintiff is a citizen of the State of  
 6 California, County of Los Angeles.

7       4.      Defendant Macy's West Stores, Inc., is an Ohio corporation with its  
 8 headquarters and principal place of business located in the Cincinnati, OH.

9       5.      Plaintiff's lawsuit asserts a cause of action for negligence against  
 10 Macy's, and is based upon his claim that she suffered from physical injury and  
 11 damages, including lost earnings, allegedly caused by Macy's.

12       6.      Attached hereto as Exhibit "C" is Plaintiff's Statement of Damages  
 13 which sets forth the following damages sought by Plaintiff \$500,000 for general  
 14 damages. In light of the alleged seriousness of the injuries claimed in Plaintiff's  
 15 Complaint, and the fact that Plaintiff is seeking loss of wages, hospital and medical  
 16 expenses, general damages, and other damages as well as pain and emotional distress,  
 17 the amount in controversy in this action exceeds the \$75,000 jurisdictional limit  
 18 established by 28 U.S.C. section 1332(a).

19  
 20 Dated: September 20, 2011

MANNING & KASS  
 ELLROD, RAMIREZ, TRESTER LLP

21  
 22 By:

  
 Jeffrey M. Lenkov, Esq.

23  
 24 Attorneys for Defendant  
 25 Macy's West Stores, Inc.

26  
 27  
 28

DECLARATION OF JEFFREY M. LENKOV

1 I, JEFFREY M. LENKOV, declare that:

2       1. I am an attorney at law duly licensed to practice before this Court and all  
3 of the courts of the State of California. I am a partner of the law office of Manning  
4 Kass Ellrod, Ramirez, Trester, LLP, the attorneys for Defendant Macy's West  
5 Stores, Inc. (Erroneously sued herein as Macy's Inc.). If called upon to do so, I could  
6 and would testify to the following from my personal knowledge, except as to those  
7 matters stated on information and belief, as to which I believe them to be true.

8       2. On September 1, 2011, Plaintiff Lori Lynn Benjamin filed this action in  
9 the Superior Court of the State of California, County of Los Angeles, as Case No.  
10 SC113996. Attached hereto as Exhibit "A" is a true and correct copy of the  
11 Summons and Complaint. Attached hereto as Exhibit "B" is a true and correct copy  
12 of Defendant Macy's West Stores' answer.

13       3. This action is a civil action of which this Court has original jurisdiction  
14 under 28 U.S.C. §1332, and is one which may be removed to this Court by  
15 Defendant Macy's pursuant to the provisions of 28 U.S.C. §1441, in that it is a civil  
16 action between citizens of different states and the matter in controversy exceeds the  
17 sum of \$75,000, exclusive of interest and costs.

18       4. Diversity of the parties exists as Plaintiff is a citizen of the State of  
19 California, County of Los Angeles.

20       5. Defendant Macy's West Stores, Inc., is an Ohio corporation with its  
21 headquarters and principal place of business located in the Cincinnati, OH.

22       6. Plaintiff's lawsuit asserts a cause of action for negligence against  
23 Macy's, and is based upon his claim that she suffered from physical injury and  
24 damages, including lost earnings, allegedly caused by Macy's.

25       7. Attached hereto as Exhibit "C" is Plaintiff's Statement of Damages  
26 which sets for the following damages sought by Plaintiff \$500,000 for general  
27 damages. In light of the alleged seriousness of the injuries claimed in Plaintiff's

1 Complaint, and the fact that Plaintiff is seeking loss of wages, hospital and medical  
2 expenses, general damages, and other damages as well as pain and emotional distress,  
3 the amount in controversy in this action exceeds the \$75,000 jurisdictional limit  
4 established by 28 U.S.C. section 1332(a).

5 I declare under penalty of perjury under the laws of the United States of  
6 America that the foregoing is true and correct and that this declaration was executed  
7 at Los Angeles, California on September 20, 2011.

8   
9 Jeffrey M. Lenkov

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Defendant Macy's West Stores, Inc., hereby demands trial of this matter by jury.

Dated: September 20, 2011

MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP

By:

Jeffrey M. Lenkov, Esq.

Attorneys for Defendant  
Macy's West Stores, Inc.

# **EXHIBIT A**

SUM-100

**SUMMONS**  
**(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

MACY'S INC., A Business Entity, DOES 1 through 50, Inclusive; DOE CORPORATION and ROE PARTNERSHIP

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

LORI LYN BENJAMIN

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/seithelp](http://www.courtinfo.ca.gov/seithelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/seithelp](http://www.courtinfo.ca.gov/seithelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. This court's lien must be paid before the court will dismiss the case.

**AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lee la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desachar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Santa Monica Courthouse, 1725 Main Street, Santa Monica, CA 90401

CASE NUMBER:  
(Número del Caso): **SC113995**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Abram C. Zukor, Esq., Zukor and Nelson, 9665 Wilshire Blvd., # 1050, B.H., CA 90212 (310) 274-0846

DATE: (Fecha)	Clerk, by (Secretario)	Deputy (Adjunto)
------------------	---------------------------	---------------------

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

under:	<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
	<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
	<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
	<input type="checkbox"/> other (specify):	

4.  by personal delivery on (date):

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

SEP 01 2011

John A. Clarke, Executive Officer/Clerk  
By A. WILLIAMS DEPUTY

1 Abram Charles Zukor, Esquire  
State Bar Number 60228  
2 Marilyn H. Nelson, Esquire  
State Bar Number 137074  
3 ZUKOR AND NELSON  
9665 Wilshire Boulevard, Suite 1050  
4 Beverly Hills, California 90212  
Telephone: (310) 274-0846  
5 Facsimile: (310) 278-4862

6 Attorneys for Plaintiff LORI LYNN BENJAMIN

CASE MANAGEMENT CONFERENCE

DEC 19 2011

Date

John H. Reid Dept F 830 am

10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

14 LORI LYNN BENJAMIN, ) Case No.: SC113996  
15 Plaintiff, )  
16 )  
17 vs. )  
18 ) COMPLAINT FOR PERSONAL  
MACY'S INC., A Business Entity; DOES) INJURIES DUE TO NEGLIGENCE  
19 I through 50, Inclusive; DOE)  
CORPORATION and ROE)  
20 PARTNERSHIP, )  
21 Defendants. )  
22 )  
23 )  
24 )

FIRST CAUSE OF ACTION

(By Plaintiff Against All Defendants for Negligence)

1. At all times herein mentioned, plaintiff LORI LYNN BENJAMIN was and now is a resident of the County of Los Angeles, State of California.

2. The true names and capacities, whether individual, corporate or otherwise, of defendants DOES 1 through 50, Inclusive, DOE CORPORATION and ROE PARTNERSHIP are unknown to plaintiff, who therefore sues said defendants by such fictitious names, and will seek leave of Court to amend this complaint to show their true names and capacities when the same have been ascertained.

3. Plaintiff is informed and believes and on such information and belief alleges that at all times herein mentioned, defendant MACY'S, INC., A Business Entity (hereinafter referred to as "MACY'S") was and is now a business entity qualified to do business in the State of California.

4. Plaintiff is informed and believes and on such information and belief alleges that at all times herein mentioned, defendants MACY'S and DOES 1 through 50, Inclusive, were the agents and employees of their co-defendants and, in doing the things herein alleged, were acting within the purpose and scope of said agency and employment.

5. Plaintiff is informed and believes and on such information and belief alleges that at all times herein mentioned defendants MACY'S and DOES 1 through 50, Inclusive, owned, operated, managed, maintained and controlled MACY'S WESTFIELD MALL CENTURY CITY, a department store located at 10250 Santa Monica Boulevard, Los Angeles, California 90067. (hereinafter referred to as "PREMISES").

1           6. On June 18, 2011, plaintiff LORI LYNN BENJAMIN was on the  
2 PREMISES.

3           7. At said time and place, defendants MACY'S and DOES 1 through 50,  
4 Inclusive, negligently, carelessly, recklessly and unlawfully owned, operated, managed,  
5 maintained, designed and controlled the center aisle of the handbag section of the  
6 PREMISES, where a display table was draped with an oversized red table cloth in an  
7 unsafe, hazardous and dangerous manner. The hazardous and dangerous condition was  
8 known, or in the exercise of ordinary and reasonable care would have been known to  
9 defendants and each of them, in adequate time for a reasonable, prudent person to warn  
10 of, or make safe the condition.

11          8. As a direct and proximate result of the negligence, carelessness,  
12 recklessness and unlawfulness of defendants, and each of them, plaintiff LORI LYNN  
13 BENJAMIN was injured when, as she walked along the marble floor down the center  
14 aisle of the handbag section, her right foot became entangled in a display table's  
15 oversized red table cloth, thereby proximately causing her to fall to the ground and  
16 sustain the injuries and damages as hereinafter described.

17          9. As a direct and proximate result of the negligence, carelessness,  
18 recklessness and unlawfulness of the defendants, and each of them, and the resulting  
19 unsafely cloth-covered display table on the PREMISES as herein alleged, plaintiff LORI  
20 LYNN BENJAMIN was injured in her health, strength and activity, sustaining injury to  
21 her body and shock and injury to her nervous system and person, all of which injuries  
22 have caused and continue to cause plaintiff LORI LYNN BENJAMIN great mental,

1 physical and nervous pain and suffering. Plaintiff is informed and believes and on such  
2 information and belief alleges that said injuries would result in some permanent disability  
3 to plaintiff LORI LYNN BENJAMIN all to her general damage in an amount to be  
4 proven at the time of trial.

5 10. As further proximate result of said negligence, plaintiff LORI LYNN  
6 BENJAMIN has been and in the future will be required to obtain the services of  
7 physicians and to incur other medical expenses. At this time, plaintiff does not know the  
8 reasonable value of such services and expenses, but will ask leave to insert the same in  
9 this complaint when ascertained.  
10  
11

12 11. At the time of the events described herein, plaintiff LORI LYNN  
13 BENJAMIN was gainfully employed. As a further direct and proximate result of the  
14 negligence of the defendants as herein alleged, plaintiff LORI LYNN BENJAMIN was  
15 prevented from attending to her usual occupation or any occupation whatsoever and has  
16 been damaged in an amount to be determined at the time of the trial. Plaintiff is informed  
17 and believes and on such information and belief alleges that by reason of the said  
18 negligence of the defendants and each of them, plaintiff will in the future, be prevented  
19 from attending to her usual occupation for an undetermined period of time, all to her  
20 damage in a sum unknown to her at this time, and plaintiff will ask leave to amend this  
21 complaint accordingly when the same has been ascertained.  
22  
23  
24  
25

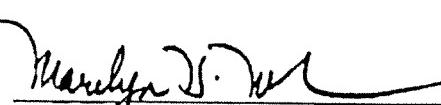
26       ///  
27  
28       ///

1 WHEREFORE, plaintiff prays for judgment against defendants, as follows:

- 2     1. For general damages in an amount to be proven at the time of trial;
- 3     2. For all medical and related expenses according to proof;
- 4     3. For costs of suit incurred herein; and,
- 5     4. For such other and further relief as the Court may deem just and proper.
- 6
- 7

8 Dated: August 30, 2011

ZUKOR AND NELSON

10   
11 MARYLIN H. NELSON, ESQUIRE  
12 Attorney for Plaintiff

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT B**

1 Jeffrey M. Lenkov, Esq.  
2 State Bar No. 156478  
3 MANNING & KASS  
4 ELLROD, RAMIREZ, TRESTER LLP  
5 15th Floor at 801 Tower  
6 801 South Figueroa Street  
7 Los Angeles, CA 90017  
Telephone: (213) 624-6900

CONFIDENTIAL COPY

Case 2:11-cv-07824-JFW -FFM  
Plaintiff v. Defendants

SEP 19 2011

John A. Clarke, Clerk of Court, by Clerk  
By M. V. [Signature]

5 Attorneys for Defendants

6 MACY'S WEST STORES, INC. [Erroneously sued herein as MACY'S INC. A Business Entity;  
7 DOES 1 through 50, Inclusive; ROE CORPORATION and ROE PARTNERSHIP]

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES, WEST DISTRICT

10 11 LORI LYNN BENJAMIN,

) Case No.: SC113996

12 Plaintiffs,

) ANSWER TO UNVERIFIED  
13 vs. ) COMPLAINT; DEMAND FOR  
14 MACY'S INC. A Business Entity; DOES 1 through ) JURY TRIAL  
15 50, Inclusive; ROE CORPORATION and ROE )  
16 PARTNERSHIP, )  
17 Defendants. )

18 COMES NOW Defendant, MACY'S WEST STORES, INC. [Erroneously sued herein as  
19 MACY'S INC. A Business Entity; DOES 1 through 50, Inclusive; ROE CORPORATION and ROE  
20 PARTNERSHIP] and answering the unverified complaint on file herein, alleges as follows:

21 1. Under the provisions of § 431.30 of the California Code of Civil Procedure, each and  
22 every allegation, and all the allegations, and each cause of action in the Complaint, and the whole  
23 thereof, is denied; and it is expressly denied that as a direct and proximate result of any act or  
24 omission on the part of this answering defendant, that plaintiff sustained injury or damage in the  
25 amount alleged, or in any amount, or amounts, or at all.

26 FIRST AFFIRMATIVE DEFENSE

27 2. AS A FIRST AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and  
28 each cause of action thereof, this answering defendant alleges by way of a plea of comparative

negligence that the plaintiff was negligent in and about the matters and activities alleged in the Complaint, that said negligence contributed to and was a proximate cause of the alleged injuries and damages, if any, and that if this defendant is found to have been negligent, and if the plaintiff is entitled to recover damages against this answering defendant by virtue of the Complaint, this defendant prays that said recovery be diminished by reason of the negligence of the plaintiff in proportion to the degree of fault attributable to the plaintiff.

#### SECOND AFFIRMATIVE DEFENSE

3. AS A SECOND AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and each cause of action thereof, this defendant alleges by way of a plea of comparative negligence that the plaintiff was negligent in and about the matters and activities alleged in the Complaint, that said negligence contributed to and was a proximate cause of the alleged injuries and damages, if any, or was the sole cause thereof, and that if the plaintiff is entitled to recover damages against this defendant by virtue of the Complaint, this defendant prays that said recovery be diminished or extinguished by reason of the negligence of the plaintiff in proportion to the degree of fault attributable to the plaintiff.

#### THIRD AFFIRMATIVE DEFENSE

4. AS A THIRD AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and each cause of action thereof, this defendant alleges that the incident mentioned in the Complaint and the alleged damages and/or injuries, if any, sustained by plaintiff were directly and proximately caused and contributed to by the negligence of a third party(ies) in that the said third parties did not exercise proper or necessary care or control over plaintiff at about the time of the happening of the incident complained of.

#### FOURTH AFFIRMATIVE DEFENSE

5. AS A FOURTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and each cause of action thereof, this defendant alleges that plaintiff had knowledge of the risks and hazards involved in the activity at the time and place of the alleged incident and voluntarily engaging therein thereby assumed the risks and hazards thereof.

## FIFTH AFFIRMATIVE DEFENSE

6. AS A FIFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and each cause of action thereof, this defendant alleges that if plaintiff is entitled to a joint judgment against this defendant and the remaining defendants, and each of them, this defendant prays that this Court order each of the judgment debtors to pay to plaintiff their proportionate share of the joint judgment, the judgment debtor's proportionate share having been determined by the trier of fact; and if this defendant is required to pay plaintiff a disproportionate share of any joint judgment, this defendant prays leave of this Court to seek contribution by motion against any other judgment debtor not paying the proportionate share allocated to any such defendant by the trier of fact.

**SIXTH AFFIRMATIVE DEFENSE**

7. AS A SIXTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and each cause of action thereof, this defendant alleges that plaintiff has failed to state facts sufficient to constitute a cause of action against defendant.

## **SEVENTH AFFIRMATIVE DEFENSE**

8. AS A SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and each cause of action thereof this defendant alleges that the injuries sustained, if any, were either wholly or in part, negligently caused by persons, firms, corporations, or entities other than this answering defendant, and said negligence is either imputed to plaintiff, by reason of the relationship of said parties to plaintiff and/or said negligence comparatively reduces the percentage of negligence, if any, by this answering defendant.

## **EIGHTH AFFIRMATIVE DEFENSE**

9. AS AN EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and each cause of action thereof, this answering defendant alleges that the Complaint, and all causes of action therein, are barred by the statute of limitations of the Code of Civil Procedure, including but not limited to C.C.P. §§ 337.1, 337.15, 338 and 340.

## NINTH AFFIRMATIVE DEFENSE

10. AS A NINTH AND SEPARATE AFFIRMATIVE DEFENSE, to the Complaint and each cause of action thereof, this defendant alleges that payments have heretofore been made on

1 behalf of defendant to plaintiff in an amount to be proved at trial without any admission of liability  
2 or responsibility for the incident herein sued upon or the injuries alleged sustained. Defendant is,  
3 pursuant to Insurance Code § 11583, entitled to a credit in that amount against any settlement made  
4 or judgment rendered herein.

5 **TENTH AFFIRMATIVE DEFENSE**

6 11. AS AN TENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint  
7 and each cause of action thereof, this defendant alleges that any injury, damage or loss suffered by  
8 plaintiff was proximately caused by plaintiff's failure to use reasonable means to prevent  
9 aggravation of plaintiff's conditions and to use reasonable means to mitigate damages to plaintiff.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 12. AS AN ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the  
12 Complaint and each cause of action thereof, this defendant alleges that liability, if any, for all non-  
13 economic damages shall be allocated in direct proportion to each tortfeasor's percentage of fault.  
14 Civil Code, § 1431, et seq.

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 13. AS A TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint  
17 and each cause of action thereof, this defendant alleges that plaintiff has unreasonably failed to  
18 mitigate damages, if any.

19 **THIRTEENTH AFFIRMATIVE DEFENSE**

20 14. AS A THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the  
21 Complaint and each cause of action thereof, this party was given no notice of any alleged dangerous  
22 condition on its property in time to rectify any such alleged condition prior to the injuries of the  
23 plaintiff.

24 **FOURTEENTH AFFIRMATIVE DEFENSE**

25 15. AS A FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the  
26 Complaint and each cause of action thereof, this answering defendant had no actual or constructive  
27 knowledge of the alleged dangerous or unsafe condition which plaintiff claims caused her injures.

28 16.

FIFTEENTH AFFIRMATIVE DEFENSE

16. AS A FIFTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the  
1 Complaint, and each cause of action thereof, this answering defendant alleges that this subject  
2 action is frivolous and plaintiff and her attorney are liable for sanctions pursuant to C.C.P. § 128.5  
3 and § 128.7.

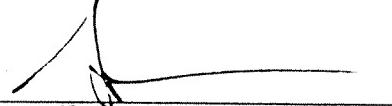
SIXTEENTH AFFIRMATIVE DEFENSE

17. AS A SIXTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the  
2 Complaint, and each cause of action thereof, this answering defendant had no ownership interest in,  
3 or control of, the premises and/or area whereat plaintiff claims to have been injured.

10 **WHEREFORE**, answering defendant prays that plaintiff take nothing by the Complaint;  
11 that answering defendant have judgment for costs of suit incurred herein; and for such further relief  
12 as this Court may deem just and proper.

13 Dated: September 19, 2011

MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP

15 By: 

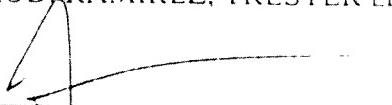
16 Jeffrey M. Lenkov, Esq.  
17 Attorneys for Defendants  
18 MACY'S WEST STORES, INC. [Erroneously  
19 sued herein as MACY'S INC. A Business  
20 Entity; DOES 1 through 50, Inclusive; ROE  
21 CORPORATION and ROE PARTNERSHIP]

DEMAND FOR JURY TRIAL

20 Defendant, MACY'S WEST STORES, INC. [Erroneously sued herein as MACY'S INC. A  
21 Business Entity; DOES 1 through 50, Inclusive; ROE CORPORATION and ROE PARTNERSHIP]  
22 hereby demand trial of this matter by jury.

23 Dated: September 19, 2011

MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP

25 By: 

26 Jeffrey M. Lenkov, Esq.  
27 Attorneys for Defendants  
28 MACY'S WEST STORES, INC. [Erroneously  
sued herein as MACY'S INC. A Business  
Entity; DOES 1 through 50, Inclusive; ROE  
CORPORATION and ROE PARTNERSHIP]

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 801 South Figueroa Street, 15th Floor, Los Angeles, California 90017.

On September 19, 2011, I served the document described as **ANSWER TO UNVERIFIED COMPLAINT; DEMAND FOR JURY TRIAL** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Abram Charles Zukor, Esq.  
Marilyn H. Nelson, Esq.  
ZUKOR AND NELSON  
9665 Wilshire Boulevard, Suite 1050  
Beverly Hills, CA 90212  
Attorney for Plaintiff, Lori Lynn Benjamin  
310 274-0846  
310 278-4862 Fax

**(BY MAIL)** I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I placed such envelope with postage thereon prepaid in the United States mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**(BY OVERNIGHT COURIER):** I placed the above-referenced document(s) in (an) envelope(s) designated by the express service carrier (UPS) for overnight delivery, addressed as indicated above. I delivered said UPS envelope to the personnel of our mail room. I am "readily familiar" with the firm's practice of collecting and processing documents intended for UPS overnight delivery. Under that practice, after the document is delivered to the firm's mail room, it is deposited that same day, with delivery fees provided for, in a box or other facility regularly maintained by the express service carrier or is delivered to an authorized courier or driver authorized by the express service carrier to receive documents, for overnight delivery.

**(BY FACSIMILE)** I telecopied such document to the offices of the addressee at the following fax number: .

**(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

**(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**(FEDERAL)** I declare under penalty of perjury under the laws of the United States of America, that the above is true and correct.

Executed on September 19, 2011 at Los Angeles, California.

  
YVONNE F. SANCHEZ

# **EXHIBIT C**

1 Abram Charles Zukor, Esquire  
2 State Bar Number 60228  
3 Marilyn H. Nelson, Esquire  
4 State Bar Number 137074  
5 ZUKOR AND NELSON  
6 9665 Wilshire Boulevard, Suite 1050  
7 Beverly Hills, California 90212  
8 Telephone: (310) 274-0846  
9 Facsimile: (310) 278-4862

10 Attorneys for Plaintiff LORI LYNN BENJAMIN

11

12

13

14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES

16

17 LORI LYNN BENJAMIN, ) Case No.: SC113996  
18 Plaintiff, )  
19 vs. ) STATEMENT OF DAMAGES  
20 )

21 MACY'S INC., A Business Entity; DOES)  
22 1 through 50, Inclusive; DOE)  
23 CORPORATION and ROE)  
24 PARTNERSHIP, )

25 Defendants. )

26 )

27 )

28 )

29 )

30 )

31 )

32 )

33 )

34 )

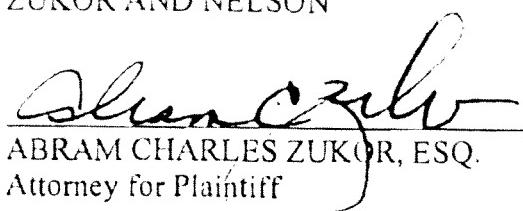
Plaintiff, LORI LYNN BENJAMIN, has incurred the following damages as a result of the above-entitled action:

1. General Damages: \$ 500,000.00

2. Medical Expenses (unknown):

Dated: September 7, 2011

ZUKOR AND NELSON

  
ABRAM CHARLES ZUKOR, ESQ.

Attorney for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Mariana P. Pfaelzer and the assigned discovery Magistrate Judge is Frederick F. Mumm.

The case number on all documents filed with the Court should read as follows:

**CV11- 7824 MRP (FFMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

The United States District Judge assigned to this case will review all filed discovery motions and thereafter, on a case-by-case or motion-by-motion basis, may refer discovery related motions to the Magistrate Judge for hearing and determination

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

Western Division  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

Southern Division  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<p>(a) PLAINTIFFS (Check box if you are representing yourself)</p> <p>LORI LYNN BENJAMIN</p>	<p><b>DEFENDANTS</b> <b>MACY'S WEST STORES, INC.</b></p>																																																																																																																								
<p>(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)</p> <p>Abram C. Zukor, Esq. ZUKOR AND NELSON 9665 Wilshire Boulevard, Suite 1050 Beverly Hills, CA 90212 310-274-0846 Attorneys for Plaintiff, LORI LYNN BENJAMIN</p>																																																																																																																									
<p>Atorneys (If Known)</p> <p>Jeffrey M. Lenkov, Esq. MANNING &amp; KASS, ELLROD, RAMIREZ, TRESTER LL 801 S. Figueroa Street, 15th Floor 213-624-6900 Attorneys for MACY'S WEST STORES, INC.</p>																																																																																																																									
<p><b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">1 U.S. Government Plaintiff</td> <td style="width: 33%;">3 Federal Question (U.S. Government Not a Party)</td> <td style="width: 33%;">PTF</td> <td style="width: 33%;">DEF</td> <td style="width: 33%;">PTF</td> <td style="width: 33%;">DEF</td> </tr> <tr> <td>2 U.S. Government Defendant</td> <td>X 4 Diversity (Indicate Citizenship of Parties in Item III)</td> <td>Citizen of This State</td> <td>X 1</td> <td>1 Incorporated or Principal Place of Business in this State</td> <td>4</td> <td>4</td> </tr> <tr> <td></td> <td></td> <td>Citizen of Another State</td> <td>2</td> <td>2 Incorporated and Principal Place of Business in Another State</td> <td>5</td> <td>5</td> </tr> <tr> <td></td> <td></td> <td>Citizen or Subject of a Foreign Country</td> <td>3</td> <td>3 Foreign Nation</td> <td>6</td> <td>6</td> </tr> </table>		1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)	PTF	DEF	PTF	DEF	2 U.S. Government Defendant	X 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of This State	X 1	1 Incorporated or Principal Place of Business in this State	4	4			Citizen of Another State	2	2 Incorporated and Principal Place of Business in Another State	5	5			Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6																																																																																													
1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)	PTF	DEF	PTF	DEF																																																																																																																				
2 U.S. Government Defendant	X 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of This State	X 1	1 Incorporated or Principal Place of Business in this State	4	4																																																																																																																			
		Citizen of Another State	2	2 Incorporated and Principal Place of Business in Another State	5	5																																																																																																																			
		Citizen or Subject of a Foreign Country	3	3 Foreign Nation	6	6																																																																																																																			
<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">1 Original Proceeding</td> <td style="width: 33%;">X 2 Removed from State Court</td> <td style="width: 33%;">3 Remanded from Appellate Court</td> <td style="width: 33%;">4 Reinstated or Reopened</td> <td style="width: 33%;">5 Transferred from another district (specify):</td> <td style="width: 33%;">6 Multi-District Litigation</td> <td style="width: 33%;">7 Appeal to District Judge from Magistrate Judge</td> </tr> </table>		1 Original Proceeding	X 2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from another district (specify):	6 Multi-District Litigation	7 Appeal to District Judge from Magistrate Judge																																																																																																																	
1 Original Proceeding	X 2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from another district (specify):	6 Multi-District Litigation	7 Appeal to District Judge from Magistrate Judge																																																																																																																			
<p><b>V. REQUESTED IN COMPLAINT: JURY DEMAND:</b> X Yes      No (Check 'Yes' only if demanded in complaint.)</p>																																																																																																																									
<p><b>CLASS ACTION under F.R.C.P. 23:</b> Yes X No      <b>MONEY DEMANDED IN COMPLAINT:</b> \$ 0.00</p>																																																																																																																									
<p><b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)</p> <p style="text-align: center;"><b>28 U.S.C. SECTION 1332</b></p>																																																																																																																									
<p><b>VII. NATURE OF SUIT</b> (Place an X in one box only.)</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 16.6%;">OTHER STATUTES</th> <th style="width: 16.6%;">CONTRACT</th> <th style="width: 16.6%;">TORTS</th> <th style="width: 16.6%;">TORTS</th> <th style="width: 16.6%;">PRISONER PETITIONS</th> <th style="width: 16.6%;">LABOR</th> </tr> </thead> <tbody> <tr> <td>400 State Reapportionment</td> <td>110 Insurance</td> <td>PERSONAL INJURY</td> <td>PERSONAL PROPERTY</td> <td>510 Motions to Vacate Sentence Habeas Corpus</td> <td>710 Fair Labor Standards Act</td> </tr> <tr> <td>410 Antitrust</td> <td>120 Marine</td> <td>310 Airplane</td> <td>370 Other Fraud</td> <td>520 General</td> <td>720 Labor/Mgmt. Relations</td> </tr> <tr> <td>430 Banks and Banking</td> <td>130 Miller Act</td> <td>315 Airplane Product Liability</td> <td>371 Truth in Lending</td> <td>530 Death Penalty</td> <td>730 Labor/Mgmt. Reporting &amp; Disclosure Act</td> </tr> <tr> <td>450 Commerce/ICC Rates/etc.</td> <td>140 Negotiable Instrument</td> <td>320 Assault, Libel &amp; Slander</td> <td>380 Other Personal Property Damage</td> <td>540 Mandamus/Other</td> <td>740 Railway Labor Act</td> </tr> <tr> <td>460 Deportation</td> <td>150 Recovery of Overpayment &amp; Enforcement of Judgment</td> <td>330 Fed. Employers' Liability</td> <td>385 Property Damage Product Liability</td> <td>550 Civil Rights</td> <td>790 Other Labor Litigation</td> </tr> <tr> <td>470 Racketeer Influenced and Corrupt Organizations</td> <td>151 Medicare Act</td> <td>340 Marine</td> <td>BANKRUPTCY</td> <td>555 Prison Condition</td> <td>791 Impl. Ret. Inc. Security Act</td> </tr> <tr> <td>480 Consumer Credit</td> <td>152 Recovery of Defaulted Student Loan (Excl. Veterans)</td> <td>345 Marine Product Liability</td> <td>422 Appeal 28 USC 158</td> <td>FORFEITURE/PENALTY</td> <td>PROPERTY RIGHTS</td> </tr> <tr> <td>490 Cable/Sat TV</td> <td>153 Recovery of Overpayment of Veteran's Benefits</td> <td>350 Motor Vehicle</td> <td>423 Withdrawal 28 USC 157</td> <td>610 Agriculture</td> <td>820 Copyrights</td> </tr> <tr> <td>510 Selective Service</td> <td>160 Stockholders' Suits</td> <td>355 Motor Vehicle Product Liability</td> <td>X 360 Other Personal Injury</td> <td>620 Other Food &amp; Drug</td> <td>830 Patent</td> </tr> <tr> <td>850 Securities Commodities Exchange</td> <td>180 Other Contract</td> <td>362 Personal Injury-Med Malpractice</td> <td>441 Voting</td> <td>625 Drug Related Seizure of Property 21 USC 881</td> <td>840 Trademark</td> </tr> <tr> <td>875 Customer Challenge 12 USC 3410</td> <td>190 Contract Product Liability</td> <td>365 Personal Injury-Product Liability</td> <td>442 Employment</td> <td>630 Liquor Laws</td> <td>SOCIAL SECURITY</td> </tr> <tr> <td>890 Other Statutory Actions</td> <td>196 Franchise</td> <td>368 Asbestos Personal Injury Product Liability</td> <td>443 Housing Accommodations</td> <td>640 R.R. &amp; Truck</td> <td>861 H.I.V. (13951f)</td> </tr> <tr> <td>891 Agricultural Act</td> <td>REAL PROPERTY</td> <td>IMMIGRATION</td> <td>444 Welfare</td> <td>650 Airline Regs</td> <td>862 Black Lung (923)</td> </tr> <tr> <td>892 Economic Stabilization Act</td> <td>210 Land Condemnation</td> <td>462 Naturalization Application</td> <td>445 American with Disabilities - Employment</td> <td>660 Occupational Safety Health</td> <td>863 DIWC-DIWW (405(g))</td> </tr> <tr> <td>893 Environmental Matters</td> <td>220 Foreclosure</td> <td>463 Habeas Corpus-Alien Detainee</td> <td>446 American with Disabilities - Other</td> <td>690 Other</td> <td>864 SSID Title XVI</td> </tr> <tr> <td>894 Energy Allocation Act</td> <td>230 Rent Lease &amp; Ejectment</td> <td>465 Other Immigration Actions</td> <td>440 Other Civil Rights</td> <td></td> <td>865 RSI (405(g))</td> </tr> <tr> <td>895 Freedom of Info. Act</td> <td>240 Torts to Land</td> <td></td> <td></td> <td></td> <td>FEDERAL TAX SUITS</td> </tr> <tr> <td>900 Appeal of Fee Determination Under Equal Access to Justice</td> <td>245 Tort Product Liability</td> <td></td> <td></td> <td></td> <td>870 Taxes (U.S. Plaintiff or Defendant)</td> </tr> <tr> <td>950 Constitutionality of State Statutes</td> <td>250 All Other Real Property</td> <td></td> <td></td> <td></td> <td>871 IRS - Third Party 26 U.S.C. 7609</td> </tr> </tbody> </table>		OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR	400 State Reapportionment	110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	510 Motions to Vacate Sentence Habeas Corpus	710 Fair Labor Standards Act	410 Antitrust	120 Marine	310 Airplane	370 Other Fraud	520 General	720 Labor/Mgmt. Relations	430 Banks and Banking	130 Miller Act	315 Airplane Product Liability	371 Truth in Lending	530 Death Penalty	730 Labor/Mgmt. Reporting & Disclosure Act	450 Commerce/ICC Rates/etc.	140 Negotiable Instrument	320 Assault, Libel & Slander	380 Other Personal Property Damage	540 Mandamus/Other	740 Railway Labor Act	460 Deportation	150 Recovery of Overpayment & Enforcement of Judgment	330 Fed. Employers' Liability	385 Property Damage Product Liability	550 Civil Rights	790 Other Labor Litigation	470 Racketeer Influenced and Corrupt Organizations	151 Medicare Act	340 Marine	BANKRUPTCY	555 Prison Condition	791 Impl. Ret. Inc. Security Act	480 Consumer Credit	152 Recovery of Defaulted Student Loan (Excl. Veterans)	345 Marine Product Liability	422 Appeal 28 USC 158	FORFEITURE/PENALTY	PROPERTY RIGHTS	490 Cable/Sat TV	153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	423 Withdrawal 28 USC 157	610 Agriculture	820 Copyrights	510 Selective Service	160 Stockholders' Suits	355 Motor Vehicle Product Liability	X 360 Other Personal Injury	620 Other Food & Drug	830 Patent	850 Securities Commodities Exchange	180 Other Contract	362 Personal Injury-Med Malpractice	441 Voting	625 Drug Related Seizure of Property 21 USC 881	840 Trademark	875 Customer Challenge 12 USC 3410	190 Contract Product Liability	365 Personal Injury-Product Liability	442 Employment	630 Liquor Laws	SOCIAL SECURITY	890 Other Statutory Actions	196 Franchise	368 Asbestos Personal Injury Product Liability	443 Housing Accommodations	640 R.R. & Truck	861 H.I.V. (13951f)	891 Agricultural Act	REAL PROPERTY	IMMIGRATION	444 Welfare	650 Airline Regs	862 Black Lung (923)	892 Economic Stabilization Act	210 Land Condemnation	462 Naturalization Application	445 American with Disabilities - Employment	660 Occupational Safety Health	863 DIWC-DIWW (405(g))	893 Environmental Matters	220 Foreclosure	463 Habeas Corpus-Alien Detainee	446 American with Disabilities - Other	690 Other	864 SSID Title XVI	894 Energy Allocation Act	230 Rent Lease & Ejectment	465 Other Immigration Actions	440 Other Civil Rights		865 RSI (405(g))	895 Freedom of Info. Act	240 Torts to Land				FEDERAL TAX SUITS	900 Appeal of Fee Determination Under Equal Access to Justice	245 Tort Product Liability				870 Taxes (U.S. Plaintiff or Defendant)	950 Constitutionality of State Statutes	250 All Other Real Property				871 IRS - Third Party 26 U.S.C. 7609
OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR																																																																																																																				
400 State Reapportionment	110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	510 Motions to Vacate Sentence Habeas Corpus	710 Fair Labor Standards Act																																																																																																																				
410 Antitrust	120 Marine	310 Airplane	370 Other Fraud	520 General	720 Labor/Mgmt. Relations																																																																																																																				
430 Banks and Banking	130 Miller Act	315 Airplane Product Liability	371 Truth in Lending	530 Death Penalty	730 Labor/Mgmt. Reporting & Disclosure Act																																																																																																																				
450 Commerce/ICC Rates/etc.	140 Negotiable Instrument	320 Assault, Libel & Slander	380 Other Personal Property Damage	540 Mandamus/Other	740 Railway Labor Act																																																																																																																				
460 Deportation	150 Recovery of Overpayment & Enforcement of Judgment	330 Fed. Employers' Liability	385 Property Damage Product Liability	550 Civil Rights	790 Other Labor Litigation																																																																																																																				
470 Racketeer Influenced and Corrupt Organizations	151 Medicare Act	340 Marine	BANKRUPTCY	555 Prison Condition	791 Impl. Ret. Inc. Security Act																																																																																																																				
480 Consumer Credit	152 Recovery of Defaulted Student Loan (Excl. Veterans)	345 Marine Product Liability	422 Appeal 28 USC 158	FORFEITURE/PENALTY	PROPERTY RIGHTS																																																																																																																				
490 Cable/Sat TV	153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	423 Withdrawal 28 USC 157	610 Agriculture	820 Copyrights																																																																																																																				
510 Selective Service	160 Stockholders' Suits	355 Motor Vehicle Product Liability	X 360 Other Personal Injury	620 Other Food & Drug	830 Patent																																																																																																																				
850 Securities Commodities Exchange	180 Other Contract	362 Personal Injury-Med Malpractice	441 Voting	625 Drug Related Seizure of Property 21 USC 881	840 Trademark																																																																																																																				
875 Customer Challenge 12 USC 3410	190 Contract Product Liability	365 Personal Injury-Product Liability	442 Employment	630 Liquor Laws	SOCIAL SECURITY																																																																																																																				
890 Other Statutory Actions	196 Franchise	368 Asbestos Personal Injury Product Liability	443 Housing Accommodations	640 R.R. & Truck	861 H.I.V. (13951f)																																																																																																																				
891 Agricultural Act	REAL PROPERTY	IMMIGRATION	444 Welfare	650 Airline Regs	862 Black Lung (923)																																																																																																																				
892 Economic Stabilization Act	210 Land Condemnation	462 Naturalization Application	445 American with Disabilities - Employment	660 Occupational Safety Health	863 DIWC-DIWW (405(g))																																																																																																																				
893 Environmental Matters	220 Foreclosure	463 Habeas Corpus-Alien Detainee	446 American with Disabilities - Other	690 Other	864 SSID Title XVI																																																																																																																				
894 Energy Allocation Act	230 Rent Lease & Ejectment	465 Other Immigration Actions	440 Other Civil Rights		865 RSI (405(g))																																																																																																																				
895 Freedom of Info. Act	240 Torts to Land				FEDERAL TAX SUITS																																																																																																																				
900 Appeal of Fee Determination Under Equal Access to Justice	245 Tort Product Liability				870 Taxes (U.S. Plaintiff or Defendant)																																																																																																																				
950 Constitutionality of State Statutes	250 All Other Real Property				871 IRS - Third Party 26 U.S.C. 7609																																																																																																																				

FOR OFFICE USE ONLY: Case Number:

CV11-07824

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes

If yes, list case numbers:

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes

If yes, list case numbers:

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events, or
- B. Call for determination of the same or substantially related or similar questions of law and fact, or
- C. For other reasons would entail substantial duplication of labor if heard by different judges, or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b)

County in this District *	California County outside of this District; State, if other than California, or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District *	California County outside of this District; State, if other than California, or Foreign Country
	Macy's West Stores, Inc. (Ohio)

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District *	California County outside of this District; State, if other than California, or Foreign Country
Los Angeles	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):


Date 7/31/11

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
---------------------	--------------	--

861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended, plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 4 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))